

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE OR CHANGE

The agency identified below in box 1 provides notice of proposed rule or change pursuant to Utah Code Subsections 63-46a-4(2) and (4). Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

State of Utah Division of Administrative Rules (DAR) 4120 State Office Building; 450 North Main PO Box 141007 Salt Lake City, UT 84114-1007 Phone: (801) 538-3218, FAX: (801) 538-1773 State E-mail: <i>asdomain.asitmain.rules</i>	DAR file no.: <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 60%;">Utah Admin. Code ref. (R no.):</td><td>R307-801</td></tr><tr><td>Date filed:</td><td></td></tr><tr><td>Time filed:</td><td></td></tr><tr><td>Received by:</td><td></td></tr></table>	Utah Admin. Code ref. (R no.):	R307-801	Date filed:		Time filed:		Received by:											
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1. Department: Environmental Quality Agency: Air Quality Room no., building: Street address: 150 N. 1950 West, Salt Lake City, UT 84116 Mailing address: Box 144820 City, state ZIP: Salt Lake City, UT 84114-4820 Contact person: Jan Miller Telephone: 801-536-4042 FAX: 801-536-4099 Internet E-mail: JMILLER@DEQ.STATE.UT.US <p style="text-align: center; font-size: small;">(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)</p>																			
2. Title of rule or section (catchline): Asbestos																			
3. Type of notice: <table style="width: 100%;"><tr><td style="width: 20%;">Proposed rules</td><td style="width: 10%;"><input type="checkbox"/></td><td style="width: 20%;">New</td><td style="width: 10%;"><input type="checkbox"/></td><td style="width: 20%;">Amendment</td><td style="width: 10%;"><input type="checkbox"/></td><td style="width: 20%;">Repeal</td></tr><tr><td></td><td><input checked="" type="checkbox"/></td><td></td><td></td><td></td><td></td><td>Repeal and reenact</td></tr></table> <hr/> <table style="width: 100%;"><tr><td style="width: 20%;">Other rule types</td><td style="width: 10%;"><input type="checkbox"/></td><td style="width: 40%;">Change in proposed rule</td><td style="width: 30%;">(changes original proposed rule file no.: <input style="width: 50px;" type="text"/>)</td></tr></table>		Proposed rules	<input type="checkbox"/>	New	<input type="checkbox"/>	Amendment	<input type="checkbox"/>	Repeal		<input checked="" type="checkbox"/>					Repeal and reenact	Other rule types	<input type="checkbox"/>	Change in proposed rule	(changes original proposed rule file no.: <input style="width: 50px;" type="text"/>)
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4. Purpose of the rule or reason for the change: <p>The existing rule is awkward and hard to understand, and does not mesh well with the requirements of other agencies such as OSHA. The health and economic implications of every requirement in the rule were reviewed in a series of 20 open meetings over a 15-month period. Participants included Division staff; asbestos consultants, contractors and certification trainers; schools and other owners of regulated properties; and representatives of other agencies such as OSHA. There is a consensus among the interests represented that the new rule is a significant improvement over the existing rule.</p>																			
5. This rule or change is a response to comments by the Administrative Rules Review Committee. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																			
6. Summary of the rule or change:																			

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Substantive provisions of the existing rule which have been dropped from the new rule:

- 1) A person seeking certification as an asbestos consultant is no longer required to have experience in the field.
- 2) The existing rule regulates the disturbance of any amount of regulated asbestos-containing material (RACM); the new rule regulates RACM of 3 square feet or 3 linear feet or more.
- 3) The existing rule requires 5 chambers in decontamination units; consistent with OSHA requirements, the new rule requires only 3 chambers.
- 4) The existing rule includes only one set of procedures and requirements for asbestos removal, and special written permission has been needed for removal in restricted spaces and for removal of scattered small patches of asbestos which together constitute a large NESHAP-sized project. The new rule specifies the alternative procedures so that no special permission is required.
- 5) The 16-hour course taught presently is not the class originally regulated under this rule; the current 16-hour course will not be regulated under the new rule.
- 6) The requirements that training providers retain certain records and that school districts submit asbestos management plans are deleted because they duplicate federal requirements.

New substantive requirements in the new rule:

- 1) The new rule adds a requirement that DAQ be notified for all regulated asbestos removal projects, not just those of NESHAP size or greater. The notification is free of charge and easy to submit and there is no 10-day waiting period for small projects.
- 2) The new rule requires the addition of a viewport (window) to work enclosures so that asbestos work practices can be monitored easily by building owners and compliance inspectors.
- 3) In accordance with OSHA requirements, the new rule requires that continuous pressure measurements be taken of the interior of an asbestos enclosure to ensure that a specific negative pressure (0.02 inches water) is maintained.
- 4) The new rule requires that asbestos inspectors meet minimum thoroughness standards and prepare an asbestos survey report for each inspection.

7. Aggregate anticipated cost or savings to:

State budget: **COSTS:** DAQ staff will take approximately 5 minutes/application to review approximately 500 applications/year for less-than-NESHAP-sized projects, for a total of approximately 40 hours/year. **SAVINGS:** 1) DAQ staff are likely to answer more calls for information as users become familiar with the new rule, but after a few months requests for information should be less frequent, because the new rule is clearer and easier to read than the current rule. 2) DAQ no longer will process applications to teach the 16-hour class for certified asbestos workers, saving approximately 40 hours/year. 3) The new rule no longer requires the asbestos worker to carry certification cards on their persons; DAQ inspectors will save approximately 40 minutes per inspection for 120 projects/year for a total of 80 hours/year, because the inspector does not have to wait for all workers to clean themselves to leave the enclosure to show their cards. 4) Requiring all certifications to be renewed at the beginning of the calendar year saves approximately 10 hours due to updating the data base less often. 5) New R307-801-14(3) specifies appropriate circumstances for use of alternative work practices; the current rule had only a single set of work practices, thus requiring contractors to get permission from DAQ. This will save DAQ staff review time of approximately 6 hours/project for approximately 50 projects/year for a total of 300 hours/year. $\text{TOTAL SAVINGS} = (40 + 80 + 10 + 300 \text{ hours}) = 430 \text{ hours}$. $\text{TOTAL COSTS} = 40 \text{ hours}$. **NET SAVINGS** = 430 hours x approximately \$33/hour (salary + benefits) = \$12,870. The savings will allow DAQ staff to undertake more outreach to educate homeowners, contractors and companies about safe asbestos practices.

Local government: Schools particularly will benefit from dropping the requirement that asbestos workers have 1000 - 4000 hours (depending upon previous education) of supervised inspecting experience before becoming certified as an inspector, because the school district will be able to arrange training and certification for employees rather than hiring an outside firm to do the inspection. Federal AHERA requires re-inspection of schools and revisions in the asbestos management plans; approximately 300 - 400 are done each year. Using school district employees for these functions will save \$200 - 300 each, or \$60,000 - \$120,000/year.

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Other persons: (See file SUPPLEM.RAF)

8. Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Each year, approximately 160 inspectors conduct approximately 5000 inspections of properties to be demolished or renovated. Approximately 2800 renovations are not regulated further. There are approximately 20 active consultant companies working in Utah who perform inspections and approximately 20 active contractor companies in Utah who remove asbestos. Each project presents its own complex problems and each contractor chooses how to deploy resources to solve them. Therefore it is impossible to estimate how much each contractor can save each year. See Box 7 for aggregate costs and savings for all affected parties.

9. Comments by the department head on the fiscal impact the rule may have on businesses:

Dianne R. Nielson: The point of re-writing the asbestos rule was to more clearly specify the requirements which the regulated community must meet, and to bring the rule into alignment with the requirements of other agencies. Satisfying these requirements reduces costs significantly for the regulated community, allowing savings to be passed along to consumers.

10. This rule or change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required): 19-2-104(1)(d), 19-2-104(3)(r) through (t)

Federal citations (optional): 40 CFR Part 61, Subpart M; 40 CFR Part 763, Subpart E.

11. This rule or change adds or updates an incorporated reference (submit a copy to DAR):

☐ Yes ☒ No

Reference title and date of issue or edition:

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the *Utah State Bulletin*. See Section 63-46a-5 and Rule R15-1 for more information.)

Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 3-31-00

A public hearing (optional) will be held on (mm/dd/yyyy): 3-21-00

at (time): 1:30 PM

at (place): Room 201 DEQ Building, 168 N. 1950 West, Salt Lake City

13. This rule or change may become effective on (mm/dd/yyyy): May 4, 2000

14. Indexing information - keywords (maximum of four, in lower case):

air pollution, asbestos, asbestos hazard emergency response*, schools

15. Indexing information - affected industries (two-digit SIC codes):

15, 76, 82, 95 and the owner of any building undergoing demolition or renovation that may disturb asbestos.

16. Attach a WordPerfect document containing the text of this rule or change (filename):

R307-801.wpd

To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms may be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee,
and title:

Rick Sprott, Planning Branch Manager

Date
(mm/dd/yyyy):

2-14-00